

**STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
BUREAU OF REGULATORY SERVICES**

In re: Thomas Battiste, L.I.  
371 Union City Road  
Naugatuck, CT 06770

Petition No. 960717-068-001

**CONSENT ORDER**

WHEREAS, Thomas Battiste of Naugatuck, Connecticut (hereinafter "respondent") has been issued lead inspector certificate number IN000245A by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 400c of the Connecticut General Statutes, as amended; and,

WHEREAS, the Department alleges that:

1. On or about March 1996, Valley Sandblasting, Inc. (hereinafter "Valley"), a lead abatement contractor for which respondent is the acting president and sole shareholder, was retained by Margaret Dayharsh to conduct abrasive blasting operations on the exterior of Ms. Dayharsh's home located at 7 Pleasant Hill, Woodbridge, CT (hereinafter the "premise"). At the aforementioned time, Ms. Dayharsh's infant resided at the premise.
2. Prior to the commencement of abrasive blasting by personnel from Valley, respondent failed to test adequately for lead paint on the exterior of the premise.
3. Subsequently, respondent failed to cause Valley to:
  - (a) contain properly the exterior areas of the premise, while conducting abrasive blasting operations on or about March 1996;
  - (b) use a HEPA vacuum waste capture system or other acceptable method such that no visible emissions or residue can be observed;
  - (c) conduct appropriate clean-up operations following exterior abrasive blasting to the premise; and/or,

- (d) dispose of lead abatement waste and soil at the premise, as required by local, state and federal regulations on waste disposal.

4. The above described facts constitute grounds for disciplinary action pursuant to General Statutes of Connecticut §20-481, taken in conjunction with Connecticut Public Health Code Regulations §§19a-111-4(c)(2)(D), 19a-111-4(c)(3)(C)(v), 19a-111-4(c)(4) and 19a-111-4(c)(5).

WHEREAS, respondent, in consideration of this Consent Order, has chosen not to contest the above allegations of wrongdoing but, while admitting no guilt or wrongdoing, agrees that for purposes of this or any future proceedings before a Hearing Officer the above allegations in this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §19a-9, §19a-14, and §20-481 of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §19a-17 and §20-481 of the Connecticut General Statutes, as amended, Thomas Battiste hereby stipulates and agrees to the following:

1. He waives his right to a hearing on the merits of this case.
2. He shall be assessed a one thousand dollar (\$1,000.00) civil penalty payable by certified check to "Treasurer, State of Connecticut." Said civil penalty shall accompany the executed Consent Order.
3. Respondent's certificate shall be placed on probation until he significantly participates and/or is engaged in three lead abatement projects. The three such projects that are subject to the probationary terms shall be the first three consecutive lead abatement projects performed by respondent and that require licensure by the Department, after the effective date of this Consent Order. The terms and conditions of the probation shall be as follows:

- a. In participating in or engaging in such lead abatement projects, respondent shall comply with all statutes and regulations applicable to his certificate, including but not limited to:
- (1) conducting lead testing only in the manner set forth in Connecticut Public Health Code Regulations §19a-111-3;
  - (2) causing all affiliated lead abatement contractors to properly contain the exterior areas of the structures while conducting lead abatement during exterior abrasive blasting to any structure (e.g., house, commercial building, public building, bridge or other such constructed entity);
  - (3) causing all affiliated lead abatement contractors to use a HEPA vacuum waste capture system to contain lead abatement waste created during exterior abrasive blasting to any structure so as to preclude visible emissions or residue to the outside atmosphere;
  - (4) causing all affiliated lead abatement contractors to conduct appropriate clean-up operations following exterior abrasive blasting to any structure; and,
  - (5) causing all affiliated lead abatement contractors to dispose of lead abatement waste and soil, in compliance with local, State and federal regulations on waste disposal.
- b. For each of the three lead abatement projects regulated by the Department, respondent shall obtain at his own expense, the services of a lead inspector, certified and practicing in the State of Connecticut and pre-approved by the Department (hereinafter "monitor"), to review respondent's records and inspect respondent's work sites.

- (1) The monitor shall meet with respondent and inspect his work sites at a frequency to be determined by the monitor, to ensure satisfactory performance of the projects.
    - (2) Respondent shall provide the monitor with reasonable notice prior to commencement of each such project and shall cooperate with the monitor in providing access to the sites and records for such monitoring.
  - c. The monitor shall prepare and submit directly to the Department, a written report addressing his/her findings regarding each such project. Such monitor's report shall include documentation of dates and durations of meetings with respondent, number and a general description of the job records, lead testing and methods used to confirm the presence of lead, additional monitoring techniques utilized, and a statement that respondent is practicing with reasonable skill and safety. If the monitor, at any time, determines that respondent is not in compliance with the statutes or regulations governing his practice or the terms of this Consent Order, he or she shall immediately so notify the Department and such notification shall constitute a violation of this Consent Order.
4. All correspondence and reports are to be addressed to:
- Francis Greene, Environmental Sanitarian, II  
Department of Public Health  
Division of Environmental Health  
450 Capitol Avenue, MS # 51LED  
P.O. Box 340308  
Hartford, CT 06134-0308
5. All reports required by the terms of this Consent Order shall be due within thirty days of completion of each such project identified in paragraph three (3) above.
  6. Respondent understands that this Consent Order is a matter of public record.

7. Any alleged violation of any provision of this Consent Order, may result in the following procedures at the discretion of the Department:

- a. The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted.
- b. Said notification shall include the acts or omission(s) which violate the term(s) of this Consent Order.
- c. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 7a above to demonstrate to the satisfaction of the Department that he has complied with the terms of this Consent Order or, in the alternative, that he has cured the violation in question.
- d. If respondent does not demonstrate compliance or cure the violation by the limited fifteen (15) day date certain contained in the notification of violation to the satisfaction of the Department, he shall be entitled to a hearing before the Commissioner who shall make a final determination of the disciplinary action to be taken.
- e. Evidence presented to the Commissioner by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.

8. In the event respondent violates any term of this Consent Order, respondent agrees immediately to refrain from practicing as a lead inspector, upon request by the Department, for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation. Respondent further agrees that failure to cooperate with the Department in its investigation during said 45 day period

shall constitute grounds for the Department to seek a summary suspension of respondent's certificate. In any such summary action, respondent stipulates that his failure to cooperate with the Department's investigation shall constitute an admission that his conduct constitutes a clear and immediate danger as required pursuant to Connecticut General Statutes, sections 4-182(c) and 19a-17(c).

9. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of his certificate before the Commissioner.
10. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department.
11. This Consent Order is effective on the day it is approved and entered by the Department.
12. The Department's allegations as contained in this Consent Order shall be deemed true in any subsequent proceeding before the Commissioner in which (1) his compliance with this Consent Order is at issue, or (2) his compliance with §20-481 of the General Statutes of Connecticut, as amended, is at issue.
13. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.
14. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review under any form or in any forum. Further, that this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General

Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that he may have under the laws of the State of Connecticut or of the United States.

15. This Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the last signatory.
16. Respondent understands that the Department has complete and final discretion as to whether an executed Consent Order is approved or accepted.
17. That respondent has the right to consult with an attorney prior to signing this document.

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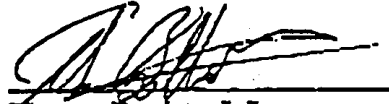
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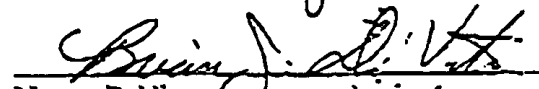
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I, Thomas Battiste, have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

  
Thomas Battiste, L.I.

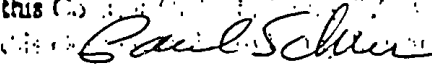
Subscribed and sworn to before me this 16<sup>th</sup> day of May 1997.

  
Notary Public or person authorized  
by law to administer an oath or affirmation  
My Commission Expires 7/3/99

The above Consent Order having been presented to the duly appointed agent of the Department of Public Health on the 16<sup>th</sup> day of May 1997, it is hereby accepted.

this (to)

attested to by



Paul Schür, Director  
Division of Environmental Health

GOB/  
S: Battiste/legal/consent  
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Paul Schür, Director

Division of Environmental Health